

**Amendment and Response**  
Serial No.: 09/888,943  
Confirmation No.: 9282  
Filed: 25 June 2001  
For: RESPIRATOR VALVE

---

Page 8 of 11

### Remarks

The Office Action mailed 14 July 2005 has been received and reviewed. Claims 15-47 remain pending in the application.

Reconsideration and withdrawal of the rejections in view of the above amendments and the following comments are respectfully requested.

### Claims 15-27, 36, 37, 46, and 47

Applicants thank the Examiner for notification to the effect that claims 15-27 are allowable, and that claims 36, 37, 46, and 47 would be allowable if rewritten in independent form.

### The 35 U.S.C. §102 Rejection

The Examiner rejected claim 28 under 35 U.S.C. §102(b) as being anticipated by Japuntich et al. (U.S. Patent No. 5,509,436). This rejection is respectfully traversed. Additionally, the Examiner further discusses features of Japuntich et al. with respect to features of claims 29-35 and 38-45. In consideration of this, as well as the indication on the Office Action Summary page that claims 28-35 and 38-45 are rejected, Applicants assume that the Examiner also intended to reject claims 29-35 and 38-45 under 35 U.S.C. §102(b) as being anticipated by Japuntich et al. Affirmation of the above assumption is respectfully requested. Further, under the above assumption, Applicants also traverse the rejection of claims 29-35 and 38-45.

For a claim to be anticipated under 35 U.S.C. § 102(b), each and every element of the claim must be found in a single prior art reference (M.P.E.P. §2131). Applicants respectfully assert that, for at least the reasons discussed below, Japuntich et al. fail to teach each and every element of the rejected claims.

Amendment and Response  
Serial No.: 09/888,943  
Confirmation No.: 9282  
Filed: 25 June 2001  
For: RESPIRATOR VALVE

---

Page 9 of 11

The respirators of the present invention include a unidirectional valve including a valve flap, wherein the valve flap has a side profile including a curvature from the first end to the second end when the valve flap is not attached to the valve body (claim 28) or when the valve flap is not attached to the face mask (claim 38). In addition, the curvature, or at least a portion of the curvature, of the valve flap is at least partially flattened when the valve flap seals the valve opening (claim 28) or seals the opening in the face mask (claim 38). That is, the valve flap of the present invention is designed with a curvature that is reshaped into a partially flattened shape when in contact with the valve seat.

The Examiner has, in the Office Action dated July 14, 2005, at page 2 (with respect to claim 28) and at page 3 (with respect to claim 38), merely asserted that the valve flaps of Japuntich et al. have a curvature from the first end to the second end when not attached to the valve body or to the face mask, and that the curvature of the valve flap, or a portion thereof, is at least partially flattened when the valve flap seals the opening. The Examiner has identified where or how those assertions are supported by the reference itself.

Applicants submit that, in contrast to the present invention, Japuntich et al. teach valve flaps that do not have an inherent curvature to flatten. Rather, Japuntich et al. teach valve flaps that themselves are flat, and are deformed when secured to, e.g., a valve seat and outside forces are applied thereto:

Flexible flap 24 preferably is made from a material that is capable of displaying A bias toward seal ridge 30 when the flexible flap 24 is secured to the valve seat 26 at surface 40. The flexible flap preferably assumes a flat configuration where no forces are applied and is elastomeric and is resistant to permanent set and creep. Japuntich et al., column 7, lines 27-34.

Flexible flap 24 may be cut from a flat sheet of material having a generally uniform thickness. Japuntich et al., column 7, lines 55-56.

Seal ridge 30 has a concave curvature . . . [that] corresponds to the deformation curve displayed by the flexible flap when it is secured as a cantilever beam. Japuntich et al., column 6, lines 14-17 (emphasis added).

**Amendment and Response**  
Serial No.: 09/888,943  
Confirmation No.: 9282  
Filed: 25 June 2001  
For: RESPIRATOR VALVE

Page 10 of 11

In other words, Japuntich et al. teach only valve flaps that are flat when not secured to a valve seat, and which display a deformation curve when in a closed position resting on the seal ridge (Japuntich et al., col. 6, lines 12-13). Japuntich et al. do not teach valve flaps with a side profile having a curvature when the valve flap is not attached to a valve body or face mask, wherein the curvature, or a portion of the curvature, is at least partially flattened when the valve flap seals the opening, as asserted in support of this rejection.

For at least the reason that Japuntich et al. fail to teach each and every aspect of independent claims 28 and 38, Japuntich et al. also fail to teach each and every aspect of claims 29-35 and 38-45, dependent directly or ultimately thereto.

In view of the above, Applicants submit that claims 28-35 and 38-45 are not anticipated by Japuntich et al. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

#### **Summary**

It is respectfully submitted that the pending claims 15-47 are in condition for allowance and notification to that effect is respectfully requested.

**Amendment and Response**

Page 11 of 11

Serial No.: 09/888,943

Confirmation No.: 9282

Filed: 25 June 2001

For: RESPIRATOR VALVE

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for

William A. MITTELSTADT et al.

By

Mueting, Raasch &amp; Gebhardt, P.A.

P.O. Box 581415

Minneapolis, MN 55458-1415

Phone: (612) 305-1220

Facsimile: (612) 305-1228

13 OCT. 2005

Date

By: KWR

Kevin W. Raasch

Reg. No. 35,651

Direct Dial (612) 305-1218

**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 13<sup>th</sup> day of October, 2005, at 12:39 p.m. (Central Time).

By: Rachel Gagliardi GebhardtName: Rachel Gagliardi Gebhardt